

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA PONCE	:	CIVIL ACTION
	:	
v.	:	No. 09-3843
	:	
MICHAEL J. ASTRUE	:	
COMMISSIONER OF SOCIAL SECURITY	:	

MEMORANDUM

Juan R. Sánchez, J.

November 29, 2012

In his Report and Recommendation, United States Magistrate Judge L. Felipe Restrepo recommends reversing the decision of the Commissioner of the Social Security Administration (“Commissioner”) denying Plaintiff Maria Ponce’s claim for disability insurance benefits and supplemental security income under Title II and Title XVI, respectively, of the Social Security Act, 42 U.S.C. §§ 1381 - 1383f, 401-433, and remanding the case pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. For the following reasons, the Report and Recommendation will be adopted.

On May 14, 2012, the Commissioner filed timely objections to the Report and Recommendation asking this Court to affirm the decision of the Administrative Law Judge (“ALJ”). The Commissioner objects to Magistrate Judge Restrepo’s conclusion that the ALJ improperly omitted manipulative functional restrictions in his residual functional capacity finding and corresponding hypothetical posed to the vocational expert.

When a party makes a timely and specific objection to a portion of a report and recommendation by a United States Magistrate Judge, the district court is obliged to engage in de novo review

of only those issues raised on objection. *See* 28 U.S.C. § 636(b)(1) (2005). Upon such review, a court may “accept, reject, or modify, in whole or in part, the findings and recommendations” contained in the report and recommendation. *Id.* In the exercise of sound discretion, the court may rely on the magistrate judge’s findings and recommendations. *See United States v. Raddatz*, 447 U.S. 667, 676 (1980).

Here, the Commissioner essentially reiterates the same argument presented to the Magistrate Judge in his response to Ponce’s Request for Review. Specifically, the Commissioner argues the ALJ properly omitted manipulative functional restrictions because in formulating his decision, he adopted the opinion of Candelaria Legaspi, M.D., the state agency physician who concluded that Ponce had no such restrictions; Ponce’s statements supported the ALJ’s decision on this issue; and the ALJ considered Ponce’s severe rheumatoid arthritis in formulating its decision. Magistrate Restrepo addressed each of these arguments in his Report and Recommendation and concluded the ALJ failed to sufficiently explain the lack of restrictions included in his residual functional capacity finding and corresponding hypothetical posed to the vocational expert. This Court agrees with Magistrate Judge Restrepo’s analysis of these issues.

Accordingly, having carefully reviewed the Report and Recommendation filed by Magistrate Judge Restrepo, the Commissioner’s objections thereto, and upon independent review of the briefs submitted by the parties, this Court overrules the objections and approves and adopts the Report and Recommendation for the same reasons set forth by the Magistrate Judge. This Court therefore grants Ponce’s Request for Review and remands this case for further proceedings consistent with the Report and Recommendation.

An appropriate order and judgment follow.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.